

## **AMENDMENTS TO THE CLAIMS:**

1. (Cancelled)
2. (Currently Amended) The implant of claim 1 8, wherein said body includes first and second transverse end walls extending between and interconnecting said first pair of end portions with said second pair of end portions.
3. (Original) The implant of claim 2, wherein said first and second axial walls are formed integral with said first and second transverse end walls to define a unitary body.
4. (Currently Amended) The implant of claim 1 8, wherein said body has a generally rectangular axial cross-section.
5. (Currently Amended) The implant of claim 1 8, wherein expansion of said body comprises outward deformation of said first and second axial walls along said transverse axis.
6. (Original) The implant of claim 5, wherein said outward deformation of said first and second axial walls defines a convex outer curvature extending along said longitudinal axis.
7. (Currently Amended) The implant of claim 1 8, wherein movement of said expansion member within said inner chamber engages said expansion member with said first and second axial walls to expand said body along said transverse axis.
8. (Currently Amended) ~~The implant of claim 1,~~ An expandable intervertebral implant, comprising:  
a body having a longitudinal axis and including first and second axial walls spaced apart along a transverse axis to define an inner chamber, said first axial wall including a first pair of opposite end portions, said second axial wall including a second pair of opposite end portions, said first pair of end portions interconnected with said second pair of end portions; and  
an expansion member engaged with said first and second axial walls at a location

intermediate said first and second pairs of opposite end portions and extending transversely between and engaging central portions of said first and second axial walls to expand said body along said transverse axis, said expansion member comprising an internal support member positioned within a central region of said inner chamber and having a height extending transversely between and engaging opposing inner surfaces of said central portions of said first and second axial walls; and  
wherein said expansion member cooperates with said first and second axial walls to uniaxially expand said body along said transverse axis.

9. (Currently Amended) ~~The implant of claim 7,~~ An expandable intervertebral implant, comprising:

a body having a longitudinal axis and including first and second axial walls spaced apart along a transverse axis to define an inner chamber, said first axial wall including a first pair of opposite end portions, said second axial wall including a second pair of opposite end portions, said first pair of end portions interconnected with said second pair of end portions; and

an expansion member engaged with said first and second axial walls at a location intermediate said first and second pairs of opposite end portions and extending transversely between and engaging central portions of said first and second axial walls to expand said body along said transverse axis, said expansion member comprising an internal support member positioned within a central region of said inner chamber and having a height extending transversely between and engaging opposing inner surfaces of said central portions of said first and second axial walls; and

wherein movement of said expansion member within said inner chamber engages said expansion member with said first and second axial walls to expand said body along said transverse axis, and wherein said movement of said expansion member within said inner chamber comprises axial displacement generally along said longitudinal axis, said expansion member slidably engaged along opposing inner surfaces of said first and second axial walls during said axial displacement.

10. (Original) The implant of claim 9, wherein said first and second axial walls have inner surfaces facing said inner chamber, at least one of said inner surfaces defining a recessed area for receiving said expansion member upon expansion of said body along said transverse axis.

11. (Previously Presented) The implant of claim 10, wherein said inner surfaces of said first and second axial walls define opposing recessed areas for receiving said expansion member upon expansion of said body along said transverse axis.

12. (Original) The implant of claim 10, wherein said recessed area retains said expansion member in a select axial position upon expansion of said body along said transverse axis.

13. (Previously Presented) The implant of claim 12, wherein said select axial position is adjacent a said central region of said inner chamber.

14. (Previously Presented) The implant of claim 9, wherein said first and second axial walls have inner surfaces facing said inner chamber, said inner surfaces defining an inward taper along said longitudinal axis, said expansion member slidably engaged along said inward taper to expand said body along said transverse axis as said expansion member is displaced generally along said longitudinal axis.

15. (Original) The implant of claim 14, wherein said inner surfaces of said first and second axial walls include opposing ramp portions defining said inward taper.

16. (Original) The implant of claim 9, wherein at least one of said first and second axial walls includes a retention element adapted to engage and retain said expansion member in a select axial position upon expansion of said body along said transverse axis.

17. (Currently Amended) The implant of claim 12, further comprising a bone growth promoting substance positioned within said inner chamber to facilitate fusion with adjacent vertebral bodies.

18. (Original) The implant of claim 17, wherein each of said first and second axial walls defines at least one bone in-growth opening extending therethrough and communicating with said inner fusion chamber.

19. (Previously Presented) The implant of claim 17, wherein said bone growth promoting substance is positioned within first and second end portions of said inner chamber on opposite sides of said expansion member.

20. (Previously Presented) The implant of claim 19, wherein each of said first and second axial walls defines a first bone in-growth opening extending therethrough and communicating with said first end portion of said inner chamber, and a second bone in-growth opening extending therethrough and communicating with said second end portion of said inner chamber.

21. (Original) The implant of claim 17, wherein said bone growth promoting substance comprises a bone morphogenic protein.

22. (Currently Amended) The implant of claim 18, wherein an outer surface of each of said first and second axial walls includes a number of anchor elements adapted to engage adjacent vertebral bodies.

23. (Original) The implant of claim 22, wherein said anchor elements comprise at least one row of teeth extending from said outer surface of each of said first and second axial walls.

24. (Original) The implant of claim 23, wherein positioning of said at least one row of teeth is confined to a central portion of said outer surface.

25. (Original) The implant of claim 24, wherein said anchor elements comprise at least one groove formed in said outer surface of each of said first and second axial walls.

26. (Original) The implant of claim 25, wherein said anchor elements comprise a plurality of grooves formed in said outer surface of each of said first and second axial walls.

27. (Original) The implant of claim 25, wherein said at least one groove has an arcuate configuration.

28. (Currently Amended) The implant of claim 1 ~~8~~, wherein said body comprises a pair of opposite end portions having a first width and a central portion having a second width greater than said first width.

29. (Currently Amended) The implant of claim 1 ~~8~~, wherein axial displacement of said expansion member within said inner chamber engages said expansion member with said first and second axial walls to expand said body along said transverse axis, said expansion member slidably engaged along opposing inner surfaces of said first and second axial walls during said axial displacement; and

wherein said expansion member comprises an elongate pin having a length extending substantially entirely across a width of said inner chamber.

30.-32. (Cancelled)

33. (Previously Presented) An expandable intervertebral implant, comprising:  
a body having an implant length extending along a longitudinal axis and an implant width, said body including first and second axial walls extending generally along said longitudinal axis and spaced apart along a transverse axis, said body including first and second transverse end walls extending between and interconnecting opposing end portions of said first and second axial walls, said axial walls and said transverse end walls defining generally flat and planar upper and lower vertebral bearing surfaces extending substantially entirely across said implant width; and

an expansion member co-acting with said first and second axial walls to expand said body along said transverse axis such that said first and second axial walls are outwardly deformed to define a convex outer curvature extending along said implant length;

wherein said body defines an inner chamber sized to receive said expansion member therein;  
and

wherein movement of said expansion member within said inner chamber engages said expansion member with said first and second axial walls at a location intermediate said first and second transverse end walls and extending transversely between and engaging central portions of said first and second axial walls to outwardly deform said first and second axial walls along said transverse axis.

34. (Previously Presented) The implant of claim 33, wherein said movement of said expansion member within said inner chamber comprises axial displacement generally along said longitudinal axis, said expansion member slidably engaged along opposing inner surfaces of said first and second axial walls during said axial displacement.

35. (Previously Presented) The implant of claim 33, wherein said expansion member is comprises an internal support member positioned within a central region of said inner chamber and having a height extending transversely between and engaging opposing inner surfaces of said central portions of said first and second axial walls.

36. (Original) The implant of claim 34, wherein each of said first and second axial walls defines at least one bone in-growth opening extending therethrough and communicating with said inner chamber; and

further comprising a bone growth promoting substance positioned within said inner chamber to facilitate fusion with adjacent vertebral bodies.

37. (Cancelled)

38. (Currently Amended) The implant of claim ~~37~~ 41, wherein said first and second axial walls define a convex outer curvature along said longitudinal axis when transitioned to said expanded configuration.

39. (Previously Presented) The implant of claim 38, wherein movement of said expansion member within said inner chamber engages said expansion member with said first and second axial walls to transition said body to said expanded configuration.

40. (Currently Amended) ~~The implant of claim 37,~~ An expandable intervertebral implant, comprising:

a body having a longitudinal axis and including first and second axial walls spaced apart along a transverse axis to define an inner chamber, said body including first and second transverse

end walls extending between and interconnecting opposing end portions of said first and second axial walls; and

an expansion member engaged with said first and second axial walls at a location intermediate said first and second transverse end walls and extending transversely between and engaging central portions of said first and second axial walls to transition said body from an initial configuration to an expanded configuration wherein said first and second axial walls are outwardly deformed away from one another along said transverse axis, said expansion member comprising an internal support member positioned within a central region of said inner chamber and having a height extending transversely between and engaging opposing inner surfaces of said central portions of said first and second axial walls; and

wherein said first and second axial walls define a convex outer curvature along said longitudinal axis when transitioned to said expanded configuration; and

wherein movement of said expansion member within said inner chamber engages said expansion member with said first and second axial walls to transition said body to said expanded configuration, and wherein said movement of said expansion member within said inner chamber comprises axial displacement generally along said longitudinal axis, said expansion member slidably engaged along opposing inner surfaces of said first and second axial walls during said axial displacement.

41. (Currently Amended) ~~The implant of claim 37,~~ An expandable intervertebral implant, comprising:

a body having a longitudinal axis and including first and second axial walls spaced apart along a transverse axis to define an inner chamber, said body including first and second transverse end walls extending between and interconnecting opposing end portions of said first and second axial walls; and

an expansion member engaged with said first and second axial walls at a location intermediate said first and second transverse end walls and extending transversely between and engaging central portions of said first and second axial walls to transition said body from an initial configuration to an expanded configuration wherein said first and second axial walls are outwardly deformed away from one another along said transverse axis, said expansion member comprising an

internal support member positioned within a central region of said inner chamber and having a height extending transversely between and engaging opposing inner surfaces of said central portions of said first and second axial walls; and

wherein said expansion member cooperates with said first and second axial walls to outwardly deform and uni-axially expand said first and second axial walls along said transverse axis.

42. (Currently Amended) The implant of claim ~~39~~ 41, wherein each of said first and second axial walls defines at least one bone in-growth opening extending therethrough and communicating with said inner chamber; and

further comprising a bone growth promoting substance positioned within said inner chamber to facilitate fusion with adjacent vertebral bodies.

43. (Original) The implant of claim 42, wherein said bone growth promoting substance comprises a bone morphogenic protein.

44. (Original) The implant of claim 39, wherein at least one of said transverse end walls defines a tool receiving opening in communication with said inner chamber and sized to receive portion of a surgical instrument therethrough for engagement with said expansion member.

45. (Cancelled)

46. (Currently Amended) The implant of claim ~~45~~ 48, wherein each of said first and second axial walls defines a first bone in-growth opening extending therethrough and communicating with said first end portion of said inner chamber, and a second bone in-growth opening extending therethrough and communicating with said second end portion of said inner chamber.

47. (Currently Amended) The implant of claim ~~45~~ 48, wherein said bone growth promoting substance comprises a bone morphogenic protein.



48. (Currently Amended) ~~The implant of claim 45;~~ An expandable intervertebral implant, comprising:

a fusion cage having a longitudinal axis and including first and second axial walls extending generally along said longitudinal axis and spaced apart along a transverse axis, said fusion cage defining an inner chamber having a central portion and opposite first and second end portions;

an expansion member positioned within said central portion of said inner chamber and engaged with said first and second axial walls at a location intermediate said first and second end portions of said inner chamber and extending transversely between and engaging central portions of said first and second axial walls to expand said fusion cage along said transverse axis, said expansion member comprising an internal support member positioned within a central region of said inner chamber and having a height extending transversely between and engaging opposing inner surfaces of said central portions of said first and second axial walls; and

a bone growth promoting material positioned within said first and second end portions of said inner chamber on opposite sides of said expansion member; and

wherein expansion of said body comprises outward deformation and uni-axial expansion of said first and second axial walls along said transverse axis.

49. (Original) The implant of claim 48, wherein said outward deformation of said first and second axial walls defines a convex outer curvature extending along said longitudinal axis.

50. (Previously Presented) A surgical method, comprising:

providing an expandable intervertebral implant having a longitudinal axis and including first and second axial walls spaced apart along a transverse axis, the body including first and second transverse end walls extending between and interconnecting opposing end portions of the first and second axial walls;

inserting the intervertebral implant within an intervertebral space with the first and second axial walls positioned adjacent respective first and second vertebral bodies;

positioning an expansion member between the first and second axial walls; and

expanding the intervertebral implant along the transverse axis by slidably engaging the expansion member along opposing inner surfaces of the first and second axial walls in a direction

along the longitudinal axis to a location intermediate the first and second transverse end walls with the expansion member extending transversely between and engaging mid-portions of the first and second axial walls to engage the first and second axial walls against the respective first and second vertebral bodies.

51. (Original) The method of claim 50, wherein the intervertebral implant defines an inner chamber extending along the longitudinal axis; and  
further comprising positioning a bone growth promoting material within the inner chamber.

52. (Previously Presented) The method of claim 50, wherein the intervertebral implant defines an inner chamber extending along the longitudinal axis; and  
wherein the expansion member comprises an internal support member positioned within a central region of the inner chamber and having a height extending transversely between and engaging the opposing inner surfaces of the mid-portions of the first and second axial walls.

53. (Previously Presented) The method of claim 52, wherein the inner chamber has opposite first and second end portions; and  
wherein moving the expansion member within the central portion of the inner chamber results in uni-axial expansion of the first and second axial walls along the transverse axis.

54. (Original) The method of claim 53, further comprising positioning a bone growth promoting material within the first and second end portions of the inner chamber on opposite sides of the expansion member.

55. (Original) The method of claim 54, wherein each of the first and second axial walls defines a first bone in-growth opening extending therethrough and communicating with the first end portion of the inner chamber, and a second bone in-growth opening extending therethrough and communicating with the second end portion of the inner chamber.

56. (Original) The method of claim 50, wherein the expanding comprises outwardly deforming the first and second axial walls to define a convex outer curvature extending along the longitudinal axis.

57. (Previously Presented) The method of claim 50, wherein each of the first and second axial walls includes first and second end portions disposed adjacent the first and second transverse end walls; and

wherein the expanding comprises outwardly deforming the first and second axial walls away from one other such that expansion of the mid-portions of the first and second axial walls is greater than expansion of the end portions of the first and second axial walls.

58. (Original) The method of claim 50, further comprising preparing a disc space between the first and second vertebral bodies prior to the insertion including removing a portion of the cortical bone from each of the first and second vertebral bodies to expose cancellous bone tissue while substantially maintaining the cortical rim region intact; and

wherein the expanding engages the first and second axial walls against the exposed cancellous bone tissue of the first and second vertebral bodies.

59. (Original) The method of claim 58, wherein the inserting includes positioning upper and lower bearing surfaces of the first and second transverse end walls adjacent the cortical rim region of the first and second vertebral bodies.

60. (Original) The method of claim 58, wherein the removing of cortical bone comprises forming a concave recess in each of the adjacent vertebral bodies; and

wherein the expanding comprises outwardly deforming each of the first and second axial walls to define a convex outer curvature received within the concave recess of a respective one of the first and second vertebral bodies.